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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, DC 20554

In re Application of )

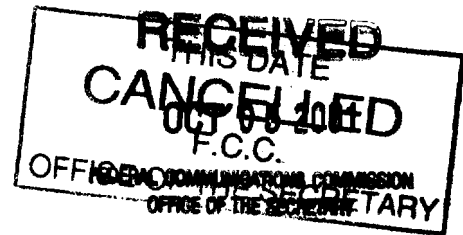
KERRVILLE COMMUNICATIONS )  
 CORPORATION, INC. )

Transferor, )

and )

VALOR TELECOMMUNICATIONS )  
 ENTERPRISES II, LLC, )

Transferee, )

For Consent to Transfer Control )  
 of Corporations Holding Commission )  
 Authorizations Pursuant to Section 214 )  
 of the Communications Act )CC Docket No. 01-286

**APPLICATION FOR CONSENT TO TRANSFER CONTROL OF  
 DOMESTIC 214 AUTHORIZATION**

**I. INTRODUCTION**

Kerrville Communications Corporation, Inc. ("KCC") and Valor Telecommunications Enterprises II, LLC ("VTE II") (collectively, "Applicants") seek consent to transfer control of corporations holding licenses and authorizations issued by the Federal Communications Commission ("Commission" or "FCC"). Through this merger, VTE II will acquire all of the issued and outstanding capital stock of KCC. As explained below, approving this merger would serve the public interest.<sup>1</sup>

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<sup>1</sup> By their signatures to this application, Applicants certify pursuant to Sections 1.2001 through 1.2003 of the Commission's Rules, 47 C.F.R. §§ 1.2001-1.2003, that no party to this Application is subject to the denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 853(a).

## **DESCRIPTION OF THE APPLICANTS**

### **Kerrville Communications Corporation, Inc.**

KCC is a privately owned, diversified telecommunications service provider based in Kerrville, Texas and organized under the laws of Texas. KCC provides a variety of communications services to its customers through four wholly owned subsidiaries: Kerrville Telephone Company ("KTC"); KCC TelCom Inc., d/b/a K2C TelCom ("K2C"); Advanced Tel-Com Systems Corporation ("ATS"); and Kerrville Cellular, Inc. ("KCI").

KTC is a rural local exchange carrier ("LEC") that provides wireline local exchange services to residential and business customers in Texas under the Certificate of Convenience and Necessity issued to KTC by the Texas Public Utility Commission, and under the provisions of the KTC Tariff. As of June 30, 2001, KTC served a total of 26,338 access lines in its two exchanges. Currently, KTC is the only provider of local exchange services in its service areas.

K2C recently began providing competitive local exchange service in Boerne, Texas pursuant to a Certificate of Operating Authority issued by the Texas Public Utility Commission. As of July 31, 2001, K2C served a total of thirty access lines in the Boerne exchange. Verizon is the incumbent local service provider in the Boerne exchange.

ATS offers microwave transmission services, long distance international services, leasing and maintenance services, telecommunications equipment sales, and cellular phone equipment to Kerrville and surrounding areas.

KCI holds an indirect general partnership interest in two separate limited partnerships that provide cellular service to subscribers in Kerrville and surrounding

areas: the CGKC&H Rural Cellular Limited Partnership and the CGKC&H #2 Rural Cellular limited partnership.<sup>2</sup> The CGKC&H Partnership holds a 99% general partner interest in Texas RSA 15B2 Limited Partnership (the “15B2 Partnership”), which provides service in Texas Rural Service Area (“RSA”) 15B2.<sup>3</sup> KCI markets the cellular services provided by the 15B2 Partnership under the name Five Star Wireless. The CGKC&H #2 Rural Cellular limited partnership serves Texas RSA 15B3. The managing partner of the CGKC&H #2 Rural Cellular limited partnership is Guadalupe Valley Communications Systems, LP, which relies on West Central Cellular to provide day-to-day management services.

### **Valor Telecommunications Enterprises II, LLC**

VTE II is a privately held limited liability company organized and existing under the laws of Delaware, and created for the specific purpose of acquiring KCC and its subsidiaries. VTE II is a wholly owned subsidiary of Valor Telecommunications Southwest II, LLC, which is a wholly owned subsidiary of Valor Telecommunications, LLC.

Valor Telecommunications, LLC (“Valor”) is a privately held limited liability corporation organized under the laws of Delaware. Through its various subsidiaries, Valor provides a wide range of telecommunications services in four states. Valor is the ultimate parent of three incumbent local exchange carriers (collectively, “the Valor

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<sup>2</sup> Four other rural LECs with service areas in central Texas also have interests in these partnerships. These four partners are: South RSA 15, Inc. (an affiliate of Central Texas Telephone Cooperative, Inc.); Guadalupe Valley Communications Systems, Inc. (an affiliate of Guadalupe Valley Telephone Cooperative, Inc.); Hill Country Telephone Cooperative, Inc.; and Coleman County Telephone Cooperative, Inc.

<sup>3</sup> Southwestern Bell Mobile Systems, Inc. holds a 1% limited partner interest in the 15B2 Partnership.

ILECs”)<sup>4</sup> that own and operate approximately 540,000 local access lines and provide communications services primarily to rural communities in New Mexico, Oklahoma, Texas, and Arkansas. Valor is also the ultimate parent of certain other subsidiaries, including Valor Telecommunications LD, LLC (a provider of interexchange services), Valor Telecommunications ISP, LLC (an information services provider), and Valor Business Solutions, LLC (a competitive LEC currently operating in five Texas markets).<sup>5</sup>

### **DESCRIPTION OF THE TRANSACTION**

On September 7, 2001, VTE II, and BA Capital Company, L.P. (“BA Capital”)<sup>6</sup> and other stockholders of KCC entered into a Stock Purchase Agreement (the “Agreement”) whereby VTE II will purchase all of the issued and outstanding capital stock of KCC. Following the acquisition, KCC will be a direct wholly-owned subsidiary of VTE II.

This acquisition does not involve the assignment of any KCC licenses or authorizations, or any change in the licensees that currently hold such authorizations or licenses. The transaction will be transparent to end users. Customers of KCC and the Valor ILECs will continue to be served by their existing carriers, and this transaction will not result in any change in the rates, terms or conditions of service for existing customers.

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<sup>4</sup> Valor Telecommunications of Oklahoma, LLC owns and operates access lines exclusively in Oklahoma. Valor Telecommunications of New Mexico, LLC owns and operates access lines primarily in New Mexico (it also owns and operates fewer than 100 lines in Texas). Valor Telecommunications of Texas, LP owns and operates access lines in Texas and Arkansas.

<sup>5</sup> Valor Business Solutions, LLC, through its subsidiaries, currently has authority to offer service in eleven states, but only provides service in Texas, where it serves 1,813 lines.

<sup>6</sup> BA Capital is a Delaware limited partnership and an affiliate of Bank of America Corporation, that is engaged primarily in private equity investing. BA Capital owns common stock, warrants to purchase common stock, preferred stock, and subordinated debt in KCC.

In addition to FCC approval,<sup>7</sup> this transaction is subject to notification and/or review by the Texas public utility commission.<sup>8</sup> This transaction does not require approval by any foreign governmental authority.

Applicants respectfully request that grant of the transfer of licenses and authorizations listed herein include the authorization for VTE II to acquire control of any licenses or authorizations issued to KCC or to its subsidiaries during the Commission's consideration of the transfer of control applications and the period required for consummation of the transaction following Commission approval.

## **II. THE MERGER IS IN THE PUBLIC INTEREST**

The proposed merger will advance the public interest by achieving economies of scale, allowing the combined entity to offer services more effectively than either party could on its own. The combined size and depth of experience of KCC and Valor will enable the new entity to offer cost effective services to its existing customers. Therefore, the proposed acquisition will benefit KCC's local exchange operations and its customers. There will be no interstate rate changes as a direct result of the transaction, and the transaction will be transparent to the customers of both companies, who will continue to be served by the same experienced personnel serving them today.

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<sup>7</sup> KCC and its subsidiaries hold the following types of FCC licenses and authorizations, control of which will be transferred to VTE II upon the closing of this transaction: Blanket Domestic Section 214 Authorization (Part 63); International Section 214 Authorization (Part 63); Common Carrier Point-to-Point Microwave Licenses (Part 101); CMRS 800 MHz Cellular Licenses (Part 20) (2 licenses); Paging and Radiotelephone Licenses (Part 22) (2 licenses); BETRS License (Part 22); Industrial/Business Pool, Conventional License (Part 90).

Concurrently with this application, Applicants are filing with the Commission an "Application to Transfer Control of International Section 214 Authorizations" and a Form 602 application to transfer control of the wireless licenses.

<sup>8</sup> This transaction is not subject to the notification and antitrust review procedures of the Hart-Scott-Rodino Act.

This transaction raises none of the competitive concerns that the Commission has identified in previous mergers involving very large incumbent LECs. The four key factors the Commission considers in determining whether a merger involving incumbent LECs could have an anti-competitive effect are: (1) the metropolitan areas involved, which support competitive LEC entry; (2) the mobile telephony holdings of the parties which enhance their ability to springboard into adjacent markets; (3) the announced plans and potential for one company to enter the other's markets; and (4) extensive advertising across regions.<sup>9</sup> None of these factors suggests that the proposed transaction would diminish competition in any respect.

First, the proposed transaction involves no large metropolitan areas.<sup>10</sup> Like the Global Crossing/Citizens merger (and unlike the SBC/Ameritech and Bell Atlantic/NYNEX mergers), the instant transaction does not threaten potential competitive entry in large metropolitan areas.<sup>11</sup> KTC operates only 26,338 lines, all located in rural areas. Moreover, the total number of access lines served by KTC and the Valor ILECs is less than 570,000,<sup>12</sup> compared to the 53 million access lines at state in the SBC/Ameritech merger (20 million for Ameritech and 33.4 million for SBC).<sup>13</sup>

Second, neither party has a mobile telephony system that could be used to springboard into the other's market. The Commission has stated that the mobile

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<sup>9</sup> *Global Crossing/Citizens Order*, 16 FCC Rcd 8507 (April 16, 2001), ¶ 6 (citing *SBC/Ameritech Order*, 14 FCC Rcd 14712 (1999); *Bell Atlantic/NYNEX Order*, 12 FCC Rcd 19985 (1997); *Bell Atlantic/GTE Order*, 15 FCC Rcd 14032 (2000)).

<sup>10</sup> The largest incorporated town served by KTC or K2C is Kerrville, TX, with a population of approximately 21,000 people.

<sup>11</sup> *Global Crossing/Citizens Order* ¶ 6.

<sup>12</sup> In addition, the Valor's competitive LEC operates a total of 1,063 access lines in Texas.

<sup>13</sup> In addition, none of the exchanges served by KTC or K2C is adjacent to any exchange served by the Valor ILECs or the Valor CLECs. Accordingly, the Commission's concerns about ILEC adjacencies in a metropolitan area do not apply here. See *Id.* ¶¶ 7-8.

telephony holdings of incumbent LECs are relevant to determining “the competitive status of the metropolitan areas affected by a merger.”<sup>14</sup> First, neither KCC nor the Valor ILECs operates within any large metropolitan areas. As noted above, KCC’s wireless subsidiary (KCI) is authorized to provide service only in rural areas – Texas RSAs 15B2 and 15B3. Second, the location of the mobile systems in which KCC has an ownership interest makes it highly improbable that they could be used as springboards into Valor’s market because those mobile systems are not adjacent to any of Valor’s access lines.

Third, neither KCC nor Valor (nor any subsidiary thereof) has announced any plans, absent the proposed transaction, to enter the market of the other party.

Fourth, neither KCC nor Valor (nor any subsidiary thereof) engages in extensive advertising in the other’s regions.

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<sup>14</sup> *Id.* ¶ 8.

## CONCLUSION

For the foregoing reasons, the Commission should find that the proposed transaction is in the public interest and approve the requested transfer expeditiously.

Respectfully submitted,

KERRVILLE COMMUNICATIONS  
CORPORATION, INC.

VALOR TELECOMMUNICATIONS  
ENTERPRISES II, LLC



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(972) 373-1000

Ruth Milkman  
Charles W. Logan  
Gil M. Strobel  
Lawler, Metzger & Milkman, LLC  
1909 K Street, NW  
Suite 820  
Washington, DC 20006  
(202) 777-7700

Dated: September 19, 2001



**CONCLUSION**

For the foregoing reasons, the Commission should find that the proposed transaction is in the public interest and approve the requested transfer expeditiously.

Respectfully submitted,

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Dated: September 19, 2001

CCDT, 01-286

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READ INSTRUCTIONS CAREFULLY BEFORE PROCEEDING		FEDERAL COMMUNICATIONS COMMISSION REMITTANCE ADVICE		OCT 05 2001		Approved by OMB 3060-0589 Page No <u>1</u> of <u>2</u>	
(1) LOCKBOX # 358145		FCC/MELLON		SEP 20 2001		FEDERAL COMMUNICATIONS COMMISSION OFFICE OF THE SECRETARY FCC USE ONLY	
SECTION A - PAYER INFORMATION							
(2) PAYER NAME (if paying by credit card, enter name exactly as it appears on your card) <b>Lawler, Metzger &amp; Milkman, LLC</b>					(3) TOTAL AMOUNT PAID (U.S. Dollars and cents) <b>\$815.00</b>		
(4) STREET ADDRESS LINE NO. 1 <b>1909 K Street, NW</b>							
(5) STREET ADDRESS LINE NO. 2 <b>Suite 820</b>							
(6) CITY <b>Washington,</b>					(7) STATE <b>DC</b>	(8) ZIP CODE <b>20006</b>	
(9) DAYTIME TELEPHONE NUMBER (include area code) <b>(202) 777-7700</b>				(10) COUNTRY CODE (if not in U.S.A.)			
FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED							
(11) PAYER (FRN) <b>0003719549</b>				(12) PAYER (TIN) <b>522026617</b>			
IF PAYER NAME AND THE APPLICANT NAME ARE DIFFERENT, COMPLETE SECTION B IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)							
(13) APPLICANT NAME <b>Valor Telecommunications Enterprises II, LLC</b>							
(14) STREET ADDRESS LINE NO. 1 <b>201 E. John Carpenter Freeway</b>							
(15) STREET ADDRESS LINE NO. 2 <b>Suite 200</b>							
(16) CITY <b>Irving,</b>					(17) STATE <b>TX</b>	(18) ZIP CODE <b>75062</b>	
(19) DAYTIME TELEPHONE NUMBER (include area code) <b>(972) 373-1000</b>				(20) COUNTRY CODE (if not in U.S.A.)			
FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED							
(21) APPLICANT (FRN) <b>0004991808</b>				(22) APPLICANT (TIN) <b>752950064</b>			
COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET							
(23A) CALL SIGN/OTHER ID				(24A) PAYMENT TYPE CODE <b>CUT</b>	(25A) QUANTITY <b>1</b>		
(26A) FEE DUE FOR (PTC) <b>\$815.00</b>		(27A) TOTAL FEE <b>\$815.00</b>		FCC USE ONLY			
(28A) FCC CODE 1		(29A) FCC CODE 2					
(23B) CALL SIGN/OTHER ID				(24B) PAYMENT TYPE CODE	(25B) QUANTITY		
(26B) FEE DUE FOR (PTC)		(27B) TOTAL FEE		FCC USE ONLY			
(28B) FCC CODE 1		(29B) FCC CODE 2					
SECTION D - CERTIFICATION							
(30) CERTIFICATION STATEMENT I, <b>Richard D. Mallen</b> , certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief. SIGNATURE <u><i>Richard D. Mallen</i></u> DATE <b>09/19/2001</b>							
SECTION E - CREDIT CARD PAYMENT INFORMATION							
(31) <input type="checkbox"/> MASTERCARD		MASTERCARD/VISA ACCOUNT NUMBER:				EXPIRATION DATE:	
<input type="checkbox"/> VISA		I hereby authorize the FCC to charge my VISA or MASTERCARD for the service(s)/authorization herein described.					
SIGNATURE _____				DATE _____			

SPECIAL USE

FCC USE ONLY

## USE THIS SECTION ONLY FOR EACH ADDITIONAL APPLICANT

## SECTION BB - ADDITIONAL APPLICANT INFORMATION

(13) APPLICANT NAME

**Kerrville Communications Corp.**

(14) STREET ADDRESS LINE NO. 1

**955 Water Street**

(15) STREET ADDRESS LINE NO. 2

(16) CITY

**Kerrville**

(17) STATE

**TX**

(18) ZIP CODE

**78028**

(19) DAYTIME TELEPHONE NUMBER (include area code)

**(830) 896-1111**

(20) COUNTRY CODE (if not in U.S.A.)

## FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED

(21) APPLICANT (FRN)

**N/A**

(22) APPLICANT (TIN)

**742197091**

IF MORE BOXES ARE NEEDED, USE ADDITIONAL FCC 159-C CONTINUATION SHEETS TO LIST EACH SERVICE

## SECTION CC - PAYMENT INFORMATION

(23A) CALL SIGN/OTHER ID

(24A) PAYMENT TYPE CODE

(25A) QUANTITY

(26A) FEE DUE FOR (PTC)

(27A) TOTAL FEE

FCC USE ONLY

(28A) FCC CODE 1

(29A) FCC CODE 2

(23B) CALL SIGN/OTHER ID

(24B) PAYMENT TYPE CODE

(25B) QUANTITY

(26B) FEE DUE FOR (PTC)

(27B) TOTAL FEE

FCC USE ONLY

(28B) FCC CODE 1

(29B) FCC CODE 2

(23C) CALL SIGN/OTHER ID

(24C) PAYMENT TYPE CODE

(25C) QUANTITY

(26C) FEE DUE FOR (PTC)

(27C) TOTAL FEE

FCC USE ONLY

(28C) FCC CODE 1

(29C) FCC CODE 2

(23D) CALL SIGN/OTHER ID

(24D) PAYMENT TYPE CODE

(25D) QUANTITY

(26D) FEE DUE FOR (PTC)

(27D) TOTAL FEE

FCC USE ONLY

(28D) FCC CODE 1

(29D) FCC CODE 2

(23E) CALL SIGN/OTHER ID

(24E) PAYMENT TYPE CODE

(25E) QUANTITY

(26E) FEE DUE FOR (PTC)

(27E) TOTAL FEE

FCC USE ONLY

(28E) FCC CODE 1

(29E) FCC CODE 2

(23F) CALL SIGN/OTHER ID

(24F) PAYMENT TYPE CODE

(25F) QUANTITY

(26F) FEE DUE FOR (PTC)

(27F) TOTAL FEE

FCC USE ONLY

(28F) FCC CODE 1

(29F) FCC CODE 2